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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,610	07/30/2001	James A. Billmaier	10003.000300 (digeo 132)	5259
32641	7590	05/16/2006	EXAMINER	
DIGEO, INC C/O STOEL RIVES LLP 201 SOUTH MAIN STREET, SUITE 1100 ONE UTAH CENTER SALT LAKE CITY, UT 84111				SHELEHEDA, JAMES R
		ART UNIT		PAPER NUMBER
		2623		

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/918,610	BILLMAIER ET AL.
	Examiner	Art Unit
	James Sheleheda	2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 March 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-68 is/are pending in the application.

4a) Of the above claim(s) 18-20 and 58-68 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 and 41-57 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 1/7/02, 1/13/03.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election with traverse of claims 1-17 and 41-57 in the reply filed on 03/08/06 is acknowledged. The traversal is on the ground(s) that claim 1 is a linking claims and represents a genus of which claims 18 and 58 are species. This is not found persuasive because claims 1 and 18 each contain unique elements not present in the other claim. Claim 1 includes elements such as an interactive television environment, receiving a first plurality of user-specific information and storing said first plurality of information in a smart card, none of which are recited in claim 18. Claim 18 includes indicating an emergency situation and sending an emergency distress signal, which are not present in claim 1. Applicant is directed to 806.04(e) of the MPEP which clearly defines that a generic claim should >require< no material element additional to those >required by< the species claims, and each of the species >claims must require all the limitations of the generic claim<.

As this is clearly not the case, applicant's arguments are not convincing. The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

2. Claims 14, 16, 54 and 56 are objected to because of the following informalities:

In claims 14 and 54, lines 4 and 5, "for the goods or service" should be changed to --for goods or service--, as there is no previous recitation of this term within the claims.

In claims 16 and 56, lines 2 and 3, "with the subject of the advertisement" should be changed to --with the information about the goods or services-- to maintain consistency with the previous claim language.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 12, 13, 41-48, 52 and 53 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Gatto et al. (Gatto) (US 2002/0174444 A1).

As to claims 1 and 41, Gatto discloses a method, and corresponding computer readable medium (Figs. 1 and 8; paragraphs 14-15), for creating a transaction request in an interactive television environment (paragraph 12), said method comprising:

receiving a first plurality of user-specific information at a remutable device for interactive television (remote control; paragraphs 104, 106 and 113);

storing said first plurality of user-specific information in a smart card (smart card in the remote control; Fig. 8; paragraphs 104, 106 and 113);

receiving a first indication of user intention to enter into a first transaction (paragraphs 104 and 106);

evaluating the first indication of user intention to enter into a first transaction to select a first plurality of specific instances of information from said first plurality of user-specific information based upon relevance to the first transaction (such as user ID, address, payment information and delivery information; paragraphs 19, 104 and 106);

creating a first transaction request based upon the first indication of user intention to enter into a transaction and the first specific instances of user-specific information (STB creating a transaction packet of all of the required information; paragraphs 104 and 106); and

sending the first transaction request (paragraphs 104 and 106).

As to claims 2 and 42, Gatto discloses wherein receiving said first plurality of user-specific information at a remotable device for interactive television comprises receiving said first plurality of user specific information at a set top box for interactive television (paragraphs 104, 106 and 113).

As to claims 3 and 43, Gatto discloses wherein storing said first plurality of user-specific information in a smart card comprises storing said plurality of user-specific

information in a smart card communicatively coupled with said remotable device for interactive television (Fig. 8; paragraphs 104, 106 and 113).

As to claims 4 and 44, Gatto discloses wherein said first plurality of user-specific information is stored in a smart card interactively under control of a set top box (Fig. 8; paragraphs 104, 106 and 113).

As to claims 5 and 45, Gatto discloses wherein said transaction comprises at least one of:

making a purchase of goods or services (paragraphs 104, 106 and 113);  
uploading information from a smart card to a headend (paragraphs 104, 106 and 113); and  
uploading information from a smart card to a set top box (paragraphs 104, 106 and 113).

As to claims 6 and 46, Gatto discloses receiving a second plurality of user-specific information at a remotable device for interactive television (remote control; paragraphs 104, 106 and 113);

storing said second plurality of user-specific information in a smart card (paragraphs 19, 104, 106 and 113);  
receiving a second indication of user intention to enter into a second transaction (user making an additional purchase; paragraphs 104 and 106);

evaluating the second indication of user intention to enter into a second transaction to select a second plurality of specific instances of information from said second plurality of user-specific information based upon relevance to the first transaction (such as user ID, address, payment information and delivery information; paragraphs 19, 104 and 106);

creating a second transaction request based upon the second indication of user intention to enter into a transaction and the second specific instances of user-specific information (STB creating a transaction packet of all of the required information; paragraphs 104 and 106); and

sending the second transaction request (paragraphs 104 and 106).

As to claims 7 and 47, Gatto discloses wherein said first plurality of user-specific information is stored in a smart card interactively under control of a set top box (Fig. 8; paragraphs 104, 106 and 113).

As to claims 8 and 48, Gatto discloses wherein user specific information includes at least one of:

financial information (such as payment information; paragraphs 19, 104 and 106); and

user personal information (such as user ID and address; paragraphs 19, 104 and 106).

As to claims 12 and 52, Gatto discloses wherein the financial information includes at least one of:

account identifying information (paragraphs 19, 104 and 106); and  
information for obtaining funds from a financial institution for a purchase (paragraphs 19, 104 and 106).

As to claims 13 and 53, Gatto discloses wherein the user personal information includes at least one of:

identification (paragraphs 19, 104 and 106); and  
delivery address (paragraphs 19, 104 and 106).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-11, 14-16, 48-51 and 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatto in view of Tsuria et al. (Tsuria) (6,424,947).

As to claims 8 and 48, while Gatto discloses user specific information, he fails to specifically disclose content accessibility rights.

In an analogous art, Tsuria discloses an interactive television transaction system (Fig. 1; column 2, lines 20-54) wherein a smart card inserted into the remote control (64,

Fig. 1; column 7, lines 6-38) will store content accessibility information (limits based upon content type and purchase limits; column 7, line 33-column 8, line 11 and column 8, lines 28-48) for the typical benefit of allowing a user, such as a parent, to control access to particular types of content and purchase limits (column 7, lines 33-55 and column 8, lines 38-48).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gatto's system to include content accessibility rights, as taught by Tsuria, for the typical benefit of allowing a user, such as a parent, to control access to particular types of content and purchase limits.

As to claims 9 and 49, Gatto and Tsuria disclose wherein the content accessibility rights include at least one of:

rights to access entertainment programming ("adult" versus "family" programming; see Tsuria at column 7, lines 33-55 and column 8, lines 38-48); and rights to request a transaction (see Tsuria at column 7, lines 33-55 and column 8, lines 38-48).

As to claims 10 and 50, Gatto and Tsuria disclose wherein: content accessibility rights are determined based upon a user's status within a group (see Tsuria at column 8, lines 38-48).

As to claims 11 and 51, Gatto and Tsuria disclose determining from a user's content accessibility rights whether the user is subject to restrictions on content (see Tsuria at column 7, lines 33-55 and column 8, lines 38-48); and

if the user is subject to restrictions on content, blocking the user from altering that user's own content accessibility rights (wherein the limits are only programmed by the parents; see Tsuria at column 8, lines 28-42 and column 12, lines 16-28).

As to claims 14 and 54, while Gatto discloses evaluating the first indication of user intention to enter into a first transaction to select a first plurality of specific instances of information from said first plurality of user-specific information based upon relevance to the first transaction for the goods or service (paragraphs 104, 106 and 113), he fails to specifically disclose determining whether a user has appropriate content accessibility rights, determining that the user has sufficient funds to request a purchase, and determining that the user personal information of the user and information about the goods or service do not conflict.

In an analogous art, Tsuria discloses an interactive television transaction system (Fig. 1; column 2, lines 20-54) wherein a smart card inserted into the remote control (64, Fig. 1; column 7, lines 6-38) will store content accessibility information (limits based upon content type and purchase limits; column 7, line 33-column 8, line 11 and column 8, lines 28-48) which allow the system to determine what content and services are allowed based upon content accessibility rights (column 7, line 33-column 8, line 11 and column 8, lines 28-48), whether the user has sufficient funds to request a purchase

(specific spending and credit limits; column 7, line 33-column 8, line 11 and column 8, lines 28-48) and determining that the user personal information of the user and information about the goods or service do not conflict (wherein the user only has access to specific types of content and spending and credit limits; column 7, line 33-column 8, line 11 and column 8, lines 28-48) for the typical benefit of allowing a user, such as a parent, to control access to particular types of content and purchase limits (column 7, lines 33-55 and column 8, lines 38-48).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gatto's system to include determining whether a user has appropriate content accessibility rights, determining that the user has sufficient funds to request a purchase, and determining that the user personal information of the user and information about the goods or service do not conflict, as taught by Tsuria, for the typical benefit of allowing a user, such as a parent, to control access to particular types of content and purchase limits.

As to claims 15 and 55, Gatto and Tsuria disclose wherein determining that the user has sufficient funds includes drawing on funds in a financial institution based upon the financial information (see Tsuria at column 8, lines 43-48).

As to claims 16 and 56, Gatto and Tsuria disclose wherein determining that the user personal information does not conflict with the information about the goods or

service includes checking purchase price against user preference for price limits (see Tsuria at column 7, line 33-column 8, line 11 and column 8, lines 28-48).

7. Claims 17 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatto.

As to claims 17 and 57, while Gatto discloses receiving television programming (Fig. 1 and paragraph 67) and presenting the television programming to a user (paragraph 75), he fails to specifically disclose receiving an advertisement for sale or lease of goods or services and presenting the advertisement to a user.

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to transmit advertisements for sale or lease of goods or services to a television viewer, typically displayed at designated break points during and after a program for a designated fee, for the typical benefits of providing a means to increase revenue for television providers while allowing advertisers access to possible consumers for their goods.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Gatto's system to include receiving an advertisement for sale or lease of goods or services and presenting the advertisement to a user for the typical benefits of providing a means to increase revenue for television providers while allowing advertisers access to possible consumers for their goods.

### ***Conclusion***

8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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### **Certificate of Transmission**

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Signature: \_\_\_\_\_

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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